IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF SOUTH CAROLINA ANDERSON/GREENWOOD DIVISION

Bryan A. Session, XXXX3877,	Civil Action No.: 8:08-1574-RBH-BHH
Plaintiff,)
•) REPORT AND RECOMMENDATION
VS.	OF MAGISTRATE JUDGE
SouthEastern Service Group, Inc., and Ms. Murray, Head Nurse,)))
Defendants.)

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On June 10, 2008, the defendants filed a motion to dismiss. On June 11, 2008, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary dismissal procedure and the possible consequences if he failed to respond adequately.

On July 7, 2008, plaintiff filed a motion for extension of time to respond to the motion to dismiss, and an extension was granted until July 31, 2008. As the plaintiff was proceeding *pro se*, the court filed another order on August 12, 2008, giving the plaintiff through September 4, 2008, to file his response to the motion to dismiss. The plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute.

On August 21, 2008, instead of responding to the merits of the motion to dismiss, the plaintiff filed a response alleging the defendants' motion was untimely. [Doc. 25.] He also filed a motion for an extension. [Doc. 26.] The Court rejected the plaintiff's argument that the defendants' motion was untimely and granted his 2nd request for an extension of time. The plaintiff was given until September 18, 2008, to file a response on the merits of the defendants' motion to dismiss. The plaintiff was again advised that a failure to respond

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would result in dismissal of this case with prejudice.

Despite the explanation in the *Roseboro* Order, the Order of this Court dated August 28, 2008 [Doc. 27], and three extensions, the plaintiff did not respond to the motion to dismiss.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *with prejudice* for lack of prosecution and for failure to comply with this Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). *See Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

s/Bruce H. Hendricks United States Magistrate Judge

January 14, 2009

Greenville, South Carolina Carolina